

U.S. House of Representatives
Committee on the Judiciary
Washington, DC 20515-6216
One Hundred Sixteenth Congress

MEMORANDUM

TO: Members of the Committee on the Judiciary

FROM: Chairman Jerrold Nadler

DATE: December 16, 2020

RE: Continuation of Ongoing Committee Litigation in the 117th Congress

As the Members of the Committee are aware, in the ongoing litigation to enforce our subpoena against former White House Counsel Donald F. McGahn, II, the Committee petitioned for and the D.C. Circuit granted rehearing en banc. The Committee's next brief is due to be filed today and the D.C. Circuit has scheduled en banc oral argument for February 23, 2021.

The Committee has a duty to oversee the Department of Justice and the Federal Bureau of Investigations. Numerous questions and concerns remain unanswered regarding the President's apparent interference with the activities and operations of these agencies. Mr. McGahn's testimony remains essential in the 117th Congress to inform the Committee's understanding of these important issues so that it may properly consider legislative responses and other proposals to restore historical norms going forward. The House has a Constitutional duty, and right, to obtain information pursuant to its Article I powers.

House Rule II.8(c) specifically authorizes ongoing litigation to continue from the previous Congress.¹ I expect a corresponding rule to be adopted by the 117th House and that, as incoming chair of the Committee, I will be empowered to continue to press any litigation—including this suit—that was authorized by the 116th House.

Pursuant to an anticipated delegation of authority from the House, I expect to promptly reissue the Committee subpoena to Mr. McGahn to ensure this Committee's litigation and corresponding legislative and oversight efforts continue uninterrupted.

¹ House Rule II.8(c), <https://perma.cc/7XTB-LUAI> (116th Congress); *accord* House Rule II.8(c), H. Doc. No. 114-192 (2017), <https://perma.cc/6KX6-Q4KQ> (115th Congress; containing identical rule).